UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte GARY COLE

Appeal No. 2006-3131
Application No. 10/006,089

ON Brief

Before RUGGIERO, MACDONALD, and HOMERE, Administrative Patent Judges.

MACDONALD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 1-4, 6-12 and 14-33.

THE INVENTION

The disclosed invention pertains to a system and method for managing information objects.

Representative claims 1 and 26 are reproduced as follows:

1. A system for managing information comprising:

a software program stored on a computer-readable medium operable to maintain an identity index, wherein said identity index comprises:

a virtual identity further comprising:

a plurality of information object identifiers each corresponding to a respective information object; and

for each information object, a resource name identifying a resource at which said respective information object is located, wherein said resource name is associated with said respective information object identifier; and

a resource definition corresponding to each respective said named resource, wherein the resource definition further comprises connection information.

26. A method of managing information comprising:

storing an identity index comprising a plurality of information object identifiers corresponding to a set of information objects that define a user;

associating a resource definition with each information object identifier, wherein each resource definition corresponds to a different one of a plurality of resources at which the information object corresponding to the associated information object identifier is located, and wherein each resource definition contains connection information for the corresponding resource.

THE REFERENCE

The Examiner relies on the following reference:

Gwertzman et al. (Gwertzman)	6,189,000	Feb. 13, 2001 (filed Jun. 30, 1997)

THE REJECTION

The following rejection is on appeal before us:

1. Claims 1-4, 6-12 and 14-33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Gwertzman.

Rather than repeat the arguments of Appellant or the Examiner, we make reference to the Briefs and the Answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the Examiner and the evidence of anticipation relied upon by the Examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the Appellant's arguments set forth in the Briefs along with the Examiner's rationale in support of the rejection and arguments in rebuttal set forth in the Examiner's Answer. Only those arguments actually made by Appellant have been considered in this decision. Arguments

which Appellant could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. See 37 C.F.R. § 41.37(c)(1)(vii)(2004). See also In re Watts, 354 F.3d 1362, 1368, 69 USPQ2d 1453, 1458 (Fed. Cir. 2004).

It is our view, after consideration of the record before us, that the evidence relied upon by the Examiner does not support the Examiner's rejection of claims 1-4, 6-12 and 14-33. Accordingly, we reverse.

In rejecting claims under 35 U.S.C. §102, a single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation. Perricone v. Medicis Pharmaceutical Corp., 432 F.3d 1368, 1375-76, 77 USPQ2d 1321, 1325-26 (Fed. Cir. 2005), citing Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc., 976 F.2d 1559, 1565, 24 USPQ2d 1321, 1326 (Fed. Cir. 1992). To establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991). "Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." In re

Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (internal citations omitted). To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. Karsten Mfg. Corp. v. Cleveland Golf Co., 242 F.3d 1376, 1383, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001); Scripps Clinic & Research Foundation v. Genentech, Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). Anticipation of a patent claim requires a finding that the claim at issue "reads on" a prior art reference. Atlas Powder Co. v. IRECO, Inc., 190 F.3d 1342, 1346, 51 USPQ2d 1943, 1945 (Fed Cir. 1999) ("In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.") (internal citations omitted).

Independent claim 26

We consider the Examiner's rejection of claim 26 as being anticipated by Gwertzman. We begin with claim 26 because it is the broadest independent claim.

Appellant argues that Gwertzman does not disclose storing an identity index including a plurality of information object identifiers corresponding to a set of

information objects that define a user [Brief, page 15, ¶2]. Appellant asserts the passages cited by the Examiner merely describe using user identification or credentials to access a data structure that contains a desired property (col. 7, lines 1-8 and lines 44-50) [id.].

In particular, Appellant notes that Gwertzman discloses user information stored in the BindAsName and BindAsPassword entries of TABLE 1 (col. 8, lines 6-19) [Brief, page 16]. Appellant further notes that Gwertzman specifically states: "[t]he BindAsName and BindAsPassword field[s] are used to tell the storage-mechanism interface the user credentials and passwords that are authentic for a particular storage mechanism," and that "[w]ithout proper authentication, the requesting application cannot access the storage mechanism containing the desired user property" (col. 8, lines 42-48) [id.]. Thus, Appellant asserts that Gwertzman does not disclose a logical name that corresponds to a user, but instead describes using user credentials to access a storage mechanism that stores properties associated with a logical name [id.].

The Examiner disagrees [Answer, page 10]. The Examiner corresponds Gwertzman's database to the recited "identity index" [id.]. The Examiner asserts it is sufficient that Gwertzman's database includes a plurality of entries where each entry includes at least one identifier (e.g., col. 10, lines 3-30) [Answer, page

10]. Thus, the Examiner concludes that Gwertzman's database includes "a plurality of information object identifiers," as claimed [id.]. The Examiner asserts that Gwertzman's identifiers correspond to "user objects" (col. 7, lines 44-50) that further correspond to the recited "information objects that define a user" [id.].

In the Reply Brief, Appellant essentially restates the argument that Gwertzman's database does not include a plurality of information object identifiers corresponding to a set of information objects that define a user [Reply Brief, page 16, ¶2, emphasis added].

At the outset, we note that the Examiner has corresponded Gwertzman's database to the instant claimed "identity index" [Answer, pages 10 and 15]. We begin our analysis by construing the meaning and scope of the recited "identity index" [independent claims 1, 20 and 26]. "During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification." In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1358, 49 USPQ2d 1464, 1467 (Fed. Cir. 1999). Claim terms are presumed to have the ordinary and customary meanings attributed to them by those of ordinary skill in the art. Sunrace Roots Enterprise Co. v. SRAM

Corp., 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003); Brookhill-Wilk 1, LLC. v. Intuitive Surgical, Inc., 334 F.3d 1294, 1298, 67 USPQ2d 1132, 1136 (Fed. Cir. 2003) ("In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art.").

In the instant case, we note that the plain, ordinary, and accustomed meaning of the term "index" generally corresponds to a list of items or terms that are presented for quick lookup. We further note that in the computer art an "index" may also be an integer, pointer, or other data structure that allows quick access to an element or entry in an array, list, or database table. Because an integer, pointer, or other data structure is not a "user", we find the former interpretation to be consistent with Appellant's disclosure of an "identity index" that broadly associates users (i.e., a list of users) with respective information objects or resources [instant specification, ¶¶ 0028 and 0043]. Thus, we broadly but reasonably construe the claim term "identity index" to encompass a list comprised of identities presented for quick lookup, where such identities are object identifiers that allow quick access to corresponding information objects, as required by the language of the claim [independent claims 1, 20 and 26].

After carefully reviewing the Gwertzman reference in its entirety, we do not agree that the instant claimed "identity index" fairly reads on Gwertzman's database in the manner asserted by the Examiner. In contrast, we find that the ordinary and customary meaning of the term "index" would not have reasonably been considered equivalent to a "database" by those of ordinary skill in the art at the time of the invention. As discussed supra, we note that an index is a lookup list (or pointer to data) that is used to rapidly access data. In contrast, a database merely provides a storage arrangement for the data itself. Simply put, an index is not a database, per se. While we acknowledge that tables of pointers that point to other data (i.e., index tables) are well known in the database art, we nevertheless find that the Examiner has not adequately explained how the instant claimed "identity index" reads on Gwertzman's database. In particular, we note that Gwertzman discloses a logical name used as a key to access a database entry (col. 7, lines 1-8), where the logical name is associated with a data structure or storage mechanism [col. 7, lines 65-67]. We further note that the multiple fields in each database entry (i.e., record) provide indicia of a database, per se, as opposed to an index or index table [col. 7, lines 1-8].

We further find that the weight of the evidence supports Appellant's position that Gwertzman does not fairly disclose an information object identifier

that corresponds to information objects that define a user. We agree with appellant that Gwertzman describes using user credentials to access a storage mechanism that stores properties associated with a logical name (col. 8, lines 42-48). In particular, we note that Gwertzman discloses: "the application request includes a property name and a logical name of a storage mechanism" [col. 6, lines 50-52]. Gwertzman further discloses: "[t]he logical name is typically associated with a data structure containing a desired property and uniquely identifies that data structure" [col. 6, lines 56-58].

Because Gwertzman fails to disclose every element and limitation of the claimed invention, we agree with Appellant that the Examiner has failed to meet his/her burden of presenting a prima facie case of anticipation. Accordingly, we will reverse the Examiner's rejection of independent claim 26. Because the language of independent claims 1 and 20 also requires an identity index that comprises a plurality of information object identifiers that each correspond to a respective information object, we will also reverse the Examiner's rejection of these claims. Because we have reversed the Examiner's rejection of each independent claim, we will not sustain the Examiner's rejection of any of the dependent claims under appeal.

In summary, we will not sustain the Examiner's rejection of any of the claims under appeal. Therefore, the decision of the Examiner rejecting claims 1-4, 6-12 and 14-33 is reversed.

With respect to at least independent claim 26, we further direct the Examiner's attention to U.S. Pat. 5,724,575 (Hoover et al.) that discloses an object-based relational distributed database, associated object identifiers, and an object broker that employs an index table to locate user data [see e.g., col. 25, lines 38-67].

REVERSED

JOSEPH F. RUGGIERO
Administrative Patent Judge

ALLEN R. MACDONALD
Administrative Patent Judge

JEAN R. HOMERE
Administrative Patent Judge

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